

## **REMARKS**

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-39 are currently pending in the application and stand rejected under 35 U.S.C. §103(a) as being unpatentable over McFarlane in view of Scherer. In view of the claims as presently amended, applicant respectfully traverses this rejection.

The Examiner states that McFarlane teaches all of the elements of applicant's claimed invention but does not teach overwriting at least a portion of the call information identifiers. The Examiner then cites Scherer as supplying the missing element by teaching overwriting the call information identifiers. The Examiner rejects the claims and asserts that the combination of McFarlane and Scherer provides applicant's claimed invention. Applicant respectfully disagrees with this assertion and submits that the combination of McFarlane and Scherer would not produce applicant's claimed invention, and further that such a combination would not produce a functional device at all.

As is known, the ANI information defines the telephone number of the caller, while the DNIS information defines the telephone number that is being called. These identifiers, in most systems, such as McFarland, are needed for the proper routing of the call. As such, in McFarlane, these fields are used to facilitate the call routing process. By repopulating these critical fields with transactional data, as is done in applicant's claimed invention, the McFarlane system would not be functional. The transactional data is not applicable to a call routing process.

McFarlane explicitly states that:

The customer identity is typically determined via Automatic Number

Identification data received from the central office that serves the calling party and/or the use of an Interactive Voice Response system to collect data from the calling party. Col. 4, lines 36-41.

The customer “identity” referred to in the above-quoted text is the caller’s telephone number obtained from the ANI field (Automatic Number Identification) and in McFarlane, this data is required to be preserved. Otherwise there would be no way to identify the telephone number of the calling party. Changing such data in McFarlane would render an inoperative device because McFarlane relies on that data as routing data. Replacing it with, for example, transactional data about the caller, such as credit card information, would render those fields as meaningless because such repopulated data could not and would not facilitate routing of the call. McFarlane would not be able to route the call properly. Applicant submits that McFarlane actually teaches away from repopulating the call information identifiers with non-call routing data, such as ANI or DNIS data, because it would render the McFarlane system inoperable.

Further, simply using the system of McFarlane and repopulating the ANI or DNIS fields based on Scherer would also deny important functionality in McFarlane. For example, McFarlane states that:

The third layer of the hierarchy comprises the Relating Layer 203 which represents the mode of presenting the point of presence to the customer (and possibly also to the agent) once the customer reaches the physical boundary of the call center 100. These selections are: prompting the user with screen pops, ANI hits with screen pops, hypertext . . . Col. 6, lines 45-53.

The phrase “ANI hits with screen pops” means that the agent screen will automatically be provided with the caller’s number via the data stored in the ANI field. However this feature would be rendered non-functional if the ANI field were repopulated with transactional data from the caller,

such as credit card number, as is done in applicant's claimed invention. Accordingly, combining the system of McFarlane with the repopulation technique of Scherer would not render a functional system.

As the Examiner is aware, it is impermissible to combine the teaching of prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The Examiner cannot pick and choose features from the prior art to recreate the claimed invention in hindsight without some teaching or suggestion in the references to support use of the particular claimed combination. Smithkline Diagnostics Inc., v. Helena Laboratories Corp., 8 U.S.P.Q.2d 1468, 1475 (Fed. Cir. 1988).

In the present case, neither McFarland nor Scherer, taken either individually or in combination, suggest applicant's claimed system or method. Combining the reference devices, as suggested by the Examiner, would not produce applicant's claimed invention nor would such a combination produce a functional device. Accordingly, applicant submits that the independent claims, as amended, are in condition for allowance, and that claims depending therefrom are allowable as depending from allowable base claims, respectively.

#### Closing Remarks

The art made of record by the Examiner but not relied upon as a basis of rejection, does not, whether taken alone or in combination with McFarlane, anticipate or render obvious any of applicant's claims as now amended in the application.

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the

Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

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By



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March 17, 2005

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